

REMARKS

The above amendment is made in response to the Final Office Action mailed December 18, 2003. Claims 1-18 are pending in the present application and stand rejected. The Examiner's reconsideration is respectfully requested in view of the following remarks.

Claims 1-18 were rejected under 35 U.S.C. § 103(a) as being anticipated by Kirch et al. (U.S. Patent No. 6,324,161) (hereinafter "Kirch") in view of Connelly et al. (U.S. Patent No. 6,594,786) (hereinafter "Connelly"). The rejection is respectfully traversed.

A. "The combination of Kirch and Connelly does not teach or suggest "inserting into a central availability-database a first-data-element comprising a notification-period."

The Office Action argues that the "internal timing table [of Kirch] stores heartbeat signals from operational nodes." This is incorrect. Kirch discloses an "internal timing table" that "records a history of receiving each heartbeat packet." (See Kirch, col. 9, lines 40-41). That is, the internal timing table stores information relating only to the *receipt* of the packet, and not the packet itself, as the Office Action argues. Accordingly, the combination of Kirch and Connelly does not teach or suggest "inserting into a central availability-database a first-data-element comprising a notification-period, said notification-period defining an upper time limit for a repetition period of an availability-signal being repeated as long as said application-server is available," as essentially claimed in claim 1.

Further, the Office Action admits that Kirch fails to explicitly show a "central availability-database," as essentially claimed in claim 1. The Office Action argues that the "central availability-database" would have been an obvious modification, as evidenced by Connelly. Connelly discloses a fault tolerant method of monitoring a computer system,

including storing in a central repository events affecting the availability of the computer system. That is, the “central repository” of Connelly stores *only* “events,” which are generated by a computer system due to a *change in its status affecting availability*. Thus, the combination of Kirch and Connelly does not teach or suggest a “central availability-database” for “inserting...a first-data-element comprising a notification-period, said notification-period defining an upper time limit for a repetition period of an availability-signal being repeated as long as said application-server is available,” as essentially claimed in claim 1

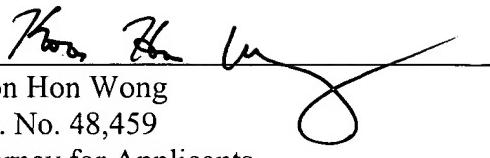
B. Conclusion

Accordingly, claim 1 is believed to be patentably distinguishable and nonobvious in view of Kirch in view of Connelly. Independent claims 8 and 13-18 are believed to be patentability distinguishable and nonobvious in view of Kirch in view of Connelly for at least the reasons given for claim 1. Dependent claims 2-7 and 9-12 are believed to be allowable for at least the reasons given for amended independent claims 1 and 8.

Withdrawal of the rejection of claims 1-18 is respectfully requested.

In view of the foregoing remarks, it is respectfully submitted that all the claims now pending in the application are in condition for allowance. Early and favorable reconsideration is respectfully requested.

Respectfully submitted,

By: 
Koon Hon Wong
Reg. No. 48,459
Attorney for Applicants

F. CHAU & ASSOCIATES, LLC
1900 Hempstead Turnpike, Suite 501
East Meadow, New York 11554
Telephone: (516) 357-0091
Facsimile: (516) 357-0092